

## **SUMMARY OF THE OFFICE ACTION**

1. There is an objection to Figures 9 and 10 regarding numbering of elements in the Figures. A corrected set of Figures 9 and 10 is requested.
2. The Abstract is objected to as exceeding the limit of 150 words.
3. The disclosure is objected to because of the element numbering issues of elements 908 and 940 in Figure 10.
4. Claim 39 is objected to as not clearly defining the two features of the method, requiring an “and” to separate those features.
5. Claims 1 and 30 have been provisionally rejected under the ground of non-statutory obviousness-type double patenting over US Patent Applications 10/954,029; and claims 37, 46 and 54 have been likewise rejected over US Patent Application Serial No. 10/954,029.
6. Claims 9, 19, 31, 46 and 48 have been rejected under 35USC112, second paragraph as being vague and indefinite.
7. Claims 1, 3-5, 7-8, 22-23, 29, 30-34, 37, 39, 41-43, 45-47 and 50-54 have been rejected under 35 USC 102(b) as being anticipated by US Patent No. 6,267,248 (Johnson).
8. Claims 6, 9-11, 24-28, 35-36, 38 and 40 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II).
9. Claims 12-13 and 48 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II) when further considered with US Patent No. 6,250,632 (Albrecht).
10. Claims 14-21 and 26-28 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II) when further considered with Purton et al. (International Patent Application Publication WO 00/51076).
11. Claims 2, 44 and 49 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II) AND FURTHER IN VIEW OF u.s. Patent No. 5,240,140 (Huen).

## **ARGUMENTS IN RESPONSE TO THE ISSUES IN THE OFFICE ACTION**

1. There is an objection to Figures 9 and 10 regarding numbering of elements in the Figures. A corrected set of Figures 9 and 10 is requested.

The Figures and/or the references in the specification have been addressed in this Amendment. It is to be noted that it is not improper to identify like features by different numbers in different Figures, while it is improper to identify different elements by like numbers. Applicants have amended page 61 of the specification identified by the Office Action as containing the different numbers so that **804** and **806** are used in both instances for the rollers, and the nature of **908** has been described. FIG. 10 now has the numbering of element **940** deleted.

2. The Abstract is objected to as exceeding the limit of 150 words.

The Abstract has been amended in this Response.

3. The disclosure is objected to because of the element numbering issues of elements 908 and 940 in Figure 10.

These issues have been addressed in conjunction with the Objection to the Figures discussed in paragraph 1 above.

4. Claim 39 is objected to as not clearly defining the two features of the method, requiring an “and” to separate those features.

Claim 39 has been amended to address this issue.

5. Claims 1 and 30 have been provisionally rejected under the ground of non-statutory obviousness-type double patenting over US Patent Applications 10/954,029; and claims 37, 46 and 54 have been likewise rejected over US Patent Application Serial No. 10/954,029.

Two separate Terminal Disclaimers are included with this Response to overcome these issues.

6. Claims 9, 19, 31, 46 and 48 have been rejected under 35USC112, second paragraph as being vague and indefinite.

Claim 9 was amended to correct the dependency error, which was the source of the lack of antecedent basis causing the ambiguity.

Claim 19 was amended to correct the dependency error, which was the source of the lack of antecedent basis causing the ambiguity.

Claim 31 has been amended to correct the omission of the antecedent basis for the term “the gripping arm” and that issue is removed. Applicants traverse the other issue with respect to the assertion that the “card mixing compartment” cannot mix cards. As recited in claim 31 and described in the specification, this function can be performed.

In considering this issue, it must be recalled that there is already a recitation of a card moving element that inserts one card at a time into the card mixing compartment, the recitation being,

“a card moving mechanism for moving cards individually from the in-feed compartment into a card mixing compartment;...”

The card mixing compartment then operates in the following manner so that as individual cards are added into the card mixing compartment, cards are mixed or randomized within that compartment as compared to the cards in the original card input area recited in the claims. Cards within the card mixing compartment are added one at a time. As cards accumulate, the use of the grippers and gripping arm operate to assist in card mixing **within the compartment**. This works in this particular claim **embodiment** by the cards in the compartment being gripped in a randomly determined location and the elevator lowered to create a space at a random position within the cards in the compartment. As cards are added into the compartment, as recited above, cards are inserted into these randomly created openings and the cards then brought together again. The cards in the mixing compartment then increase in number (to a total of all cards desired to be inserted into the compartment, which may be the entire set of cards inserted into the card infeed area), creating a randomized mixture of cards in the card mixing compartment. The only physical action (excluded is the processor randomized separation location) causing mixing of cards that does not occur in the mixing chamber is the recited card moving step. The operation of the step of card mixing therefore does occur within the card mixing compartment.

Claim 46 has been amended to better define the “access” that constituted the basis of this objection.

All issues raised under 35 USC 112, second paragraph have been specifically addressed.

7. Claims 1, 3-5, 7-8, 22-23, 29, 30-34, 37, 39, 41-43, 45-47 and 50-54 have been rejected under 35 USC 102(b) as being anticipated by US Patent No. 6,267,248 (Johnson).

As is always the situation where a single reference has been cited under 35 USC 102(b) against claims of an application, it is essential to compare the actual limitations of the claims and the actual teachings of the references, beginning with the independent claims that have been rejected under this statutory provision.

<b>CLAIM 1</b>	<b>JOHNSON DISCLOSURE</b>	<b>COMMENTS</b>
A device for forming a random set of playing cards comprising:		This function of a device is disclosed by Johnson.
a top surface and a bottom surface of said device;		All physical apparatus have a nominative top and bottom.
a single card receiving area for receiving an initial set of playing cards;	“...holding means 12...”	
a randomizing system for randomizing the order of an initial set of playing cards;		This function can be provided by Johnson.
a collection surface in a card collection area for receiving randomized playing cards one at a time into the card collection area, the collection surface receiving cards so that all cards are received below the top surface of the device;	Johnson provides multiple collection surfaces (the compartments 24) for receiving cards one-at-time.	
an image capture device that reads the rank and suit of each card before being received on the card collection surface;		Johnson discloses card reading before deposit into the carousel on column 5, lines 7-11.
an elevator for raising the collection surface so that at least some randomized cards are		<b>There is no elevator raising the collection surface so that randomized cards are elevated</b>

elevated at least to the top surface of the device; and		<b>at least to the top surface. Cards in Johnson always remain below the top surface, with at least shroud 25 existing between cards and the top of the device.</b>
a moveable cover over the elevator.		<b>As there is no elevator, there can be no moveable cover over the elevator.</b>

As should be readily seen, Johnson does not anticipate the present limitation of claim 1 and all claims dependent therefrom. This rejection, with respect to claim 1 and all claims dependent therefrom is clearly in error. There are at least three distinct limitations in the claims that are not taught by Johnson:

- 1) An elevator;
- 2) Raising cards above the top surface by the elevator; and
- 3) A cover over the elevator.

Applicants are so certain of the lack of anticipation of the invention disclosed in claim 1, a new claim 55 has been provided herein that eliminates the second distinguishing limitation, as the sufficiency of the differences provided by limitations 1) and 3) is sufficient to establish patentability over the art.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 23. This rejection must fail.

<b>CLAIM 23</b>	<b>JOHNSON</b>	<b>COMMENTS</b>
A device for forming a random set of playing cards comprising:		This function of a device is disclosed by Johnson.
a top surface and a bottom surface of said device;		All physical apparatus have a nominative top and bottom.
a receiving area for an initial set of playing cards	"...holding means 12..."	
a randomizing system for randomizing initial set of playing cards;		This function can be provided by Johnson.
a collection surface in a card collection area for receiving randomized playing cards;	Johnson provides multiple collection surfaces (the compartments 24) for receiving cards one-at-time.	

an elevator for raising the collection surface within the card collection area;		<b>There is no elevator raising the collection surface so that randomized cards are elevated at least to the top surface. Cards in Johnson always remain below the top surface, with at least shroud 25 existing between cards and the top of the device.</b>
at least one card supporting element within the card collection area that will support a predetermined number of cards within the card collection area; and		<b>There is no card supporting element in any card collecting area of Johnson that supports a predetermined number of cards. This is the grasping feature or gripping arm feature discussed above.</b>
an image capture system that can read at least the rank of each at least one card before it is inserted into a set of cards at a position below the predetermined number of cards.		Johnson discloses card reading before deposit into the carousel on column 5, lines 7-11.

As should be readily seen, Johnson does not anticipate the present limitation of claim 23 and all claims dependent therefrom. This rejection, with respect to claim 23 and all claims dependent therefrom is clearly in error. There are at least two distinct limitations in the claims that are not taught by Johnson:

- 4) An elevator; and
- 5) The card supporting element within the card collection area that will support a predetermined of cards.

This rejection is clearly in error and must be withdrawn.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 30. This rejection must fail.

<b>CLAIM 30</b>	<b>JOHNSON</b>	<b>COMMENTS</b>
A device for forming a random set of playing cards comprising:		This function of a device is disclosed by Johnson.
a top surface and a bottom surface		All physical apparatus have a

of said device;		nominative top and bottom.
a single card receiving area for receiving an initial set of playing cards;	"...holding means 12..."	
a randomizing system for randomizing the order of an initial set of playing cards;		This function can be provided by Johnson.
a collection surface in a card collection area for receiving randomized playing cards one at a time into the card collection area, the collection surface receiving cards so that all cards are received below the top surface of the device;	Johnson provides multiple collection surfaces (the compartments 24) for receiving cards one-at-time.	
an image capture device that reads the rank and suit of each card after it has begun leaving the single card receiving area and before being received on the card collection surface;	Johnson discloses card reading before deposit into the carousel on column 5, lines 7-11.	
an elevator for raising the collection surface so that at least some randomized cards are elevated at least to the top surface of the device; and		<b>There is no elevator raising the collection surface so that randomized cards are elevated at least to the top surface. Cards in Johnson always remain below the top surface, with at least shroud 25 existing between cards and the top of the device.</b>
a moveable cover over the elevator.		<b>As there is no elevator, there can be no moveable cover over the elevator.</b>

It should be noted that there is absolutely no way that the disclosed receiving carousel of Johnson can be considered to meet the limitation of an elevator. The function and meaning of elevators and carousels within the playing card shuffling art are different. Carousels rotate individual compartments, while the elevator of the present technology raises and lowers entire groups of playing cards, without separate compartmentalization.

As is shown by the above comparison, there is no basis for maintaining the rejection of claim 30 under 35 USC 102(a) over Johnson.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 31. This rejection must fail.

CLAIM 31	JOHNSON	COMMENTS
An automatic card shuffling device comprising:		This function of a device is disclosed by Johnson.
a microprocessor with memory for controlling the operation of the device;		Johnson discloses a microprocessor
an in-feed compartment for receiving cards to be randomized;	"...holding means 12..."	
a card moving mechanism for moving cards individually from the in-feed compartment into a <u>single card mixing compartment that receives all cards during a randomization process</u> ;		This function can be provided by Johnson., although cards are moved into a multiplicity of compartments, not a single mixing compartment.
an image capture system that can identify at least the rank of each card as it is moved towards, into or through the card mixing compartment, but before removal from the device;	Johnson discloses card reading before deposit into the carousel on column 5, lines 7-11.	
a card mixing compartment that identifies a position for each card in each set of cards formed in the card mixing compartment,		As Johnson can separate cards by suit and rank, it can identify the location of individual cards in separate compartments, but not in a card mixing compartment.
a memory that records at least the rank of each card in each set of cards formed in the card mixing compartment;		Johnson may temporarily have a memory of where at least some individual cards are located.
wherein the card mixing compartment comprises a plurality of substantially vertical		<b>Johnson shows a carousel, which is not a substantially vertical support, but has</b>



supports, an opening for the passage of cards from the in-feed compartment, a moveable lower support surface; at least one stationary gripping element, <u>a gripping arm</u> , a lower edge proximate the opening, the gripping arm capable of suspending cards above the opening; and		<b>multiple radial compartments. Johnson does not teach gripping elements or gripping arms capable of suspending cards above an opening.</b>
an elevator for raising and lowering the moveable support surface.		<b>There is no elevator in Johnson.</b>

This rejection is completely in error as shown by the word-by-word, clause by clause comparison of the limitations of the claims. The rejection must be withdrawn.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 37. This rejection must fail.

<b>CLAIM 37</b>	<b>JOHNSON</b>	<b>COMMENTS</b>
A method of randomizing a group of cards, comprising the steps of: placing a group of cards to be randomized into a card in-feed tray;	Disclosed by Johnson.	
removing cards individually from the card in-feed tray and delivering the cards into	Cards are moved individually.	
a card collection area, the card collection area having a moveable lower surface, and a stationary opening for receiving cards from the in-feed tray;		<b>Johnson has multiple compartments, not a card collection area with a stationary opening. The openings for all carousel compartments move with the rotation.</b>
elevating the moveable lower surface to a randomly determined height;		Johnson rotates compartments to angular positions, the height being insignificant.
grasping at least one edge of a	<b>Johnson never grips edges of</b>	

group of cards in the card collection area at a point just above the stationary opening;	<b>cards. Even the rollers grip faces of cards.</b>	
lowering the moveable lower surface to create an opening in a stack of cards formed on the lower surface, the opening located just beneath a lowermost point where the cards are grasped;	<b>Johnson never lowers the moveable surfaces to create an opening, and cannot create an opening between cards.</b>	
inserting a card removed from the in-feed tray into the opening;	<b>As Johnson does not have this “opening” (the stationary opening), this step cannot be performed.</b>	
after randomizing all cards, elevating a collection of randomized cards; and	<b>There is no elevation of a collection of randomized cards, but rotation of those cards.</b>	
reading at least the rank of each card after it is individually removed from the card in-feed tray and before it has been inserted into the opening.	Although Johnson reads cards, there is no opening for them to be passed through as recited in the claims.	

As can be seen, Johnson fails to show numerous limitations in the claims that are recited in the claim 37. The rejection is in error and must be withdrawn.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 43. This rejection must fail.

<b>CLAIM 43</b>	<b>JOHNSON</b>	<b>COMMENTS</b>
An automatic card shuffler comprising:	Johnson has a card shuffler.	
a housing capable of being mounted into a gaming table surface;	There are no attributes enabling mounting into a table. The direction of card insertion and card removal is inherently negative to such mounting.	
a card receiver for accepting a group of cards to be shuffled;	“...holding means 12...”	
a randomizing system for randomizing the order of an initial	Johnson may randomize cards, and Johnson discloses card	

set of playing cards wherein an image capture device identifies at least the rank of each card in the initial set of playing cards before each card is positioned on a collection surface for receiving randomized cards;	reading before deposit into the carousel on column 5, lines 7-11.	
the a single collection surface for receiving <u>all</u> randomized cards;		<b>Johnson has multiple carousel compartments, not a single collection surface for all cards.</b>
an elevator for raising the collection surface to an elevation proximate the gaming table surface; and		<b>There is no Johnson elevator.</b>
a microprocessor for controlling the operation of the card shuffler.		Johnson does have a processor for control of the device.

Johnson clearly fails to show deposition of all playing cards onto a single collection surface.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 45. This rejection must fail.

<b>CLAIM 45</b>	<b>JOHNSON</b>	<b>COMMENTS</b>
An automatic card shuffler, comprising:		Johnson discloses a card shuffler.
a microprocessor;		Johnson has a microprocessor and a card randomization process.
a card randomization mechanism;		
a controller for controlling the card randomization mechanism by means of a user-manipulated remote control device; and		<b>Johnson does not disclose a remote control device on a playing card shuffler.</b>
a card moving sequence programmed in memory that enables the automatic card shuffler to move a set of cards from a card receiving position to a card collection area in the shuffler in a non-shuffling event,		<b>Johnson teaches multiple compartments in a carousel, not a card collection area.</b>
and to read the rank and suit of each card between the card receiving position and the card		Johnson does disclose card reading before movement into the carousel.

collection area in the non-shuffling event.		
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This rejection is in error. **Johnson clearly does not disclose a remote control device on a playing card shuffler.**

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 46. This rejection must fail.

CLAIM 46	JOHNSON	COMMENTS
A device for forming a random set of playing cards comprising:	Generally disclosed by Johnson.	
a top surface and a bottom surface of said device;	Inherent in any apparatus.	
a single card receiving area for receiving an initial set of playing cards;	"...holding means 12..."	
a randomizing system for randomizing the order of an initial set of playing cards;	Johnson shuffles cards.	
a single collection surface in a card collection area for receiving randomized playing cards one at a time into the single card collection area to form a single randomized set of playing cards, the single collection surface receiving cards so that all playing cards from the initial set of playing cards are received below the top surface of the device		<b>Johnson does not have a single collection surface for collecting cards but has a carousel with multiple compartments that receive cards.</b>
an image capture device that reads the rank and suit of each card after it has begun leaving the single card receiving area and before being received on the single card collection surface; and		Johnson has a playing card reading sensor.
<u>access into an open area comprising 2, 3 or 4 vertical</u>		The delivery tray eventually receives all randomized playing

supports for removal of the single randomized set of playing cards as a complete set.		cards.
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Johnson does not disclose the use of a single surface for receiving randomized cards. Johnson cannot perform this step or provide that structure. Johnson does not show the 2, 3 or 4 vertical supports, but only shows a ledge with a single angled support for catching the cards dropped into the delivery tray. The vertical supports, as opposed to the angled support of Johnson perform different functions, Johnson actually catches cards as they slide into the delivery tray. The 2, 3 or 4 vertical supports prevent the cards from sliding in various directions as the cards are moved by the single card collection surface. The present claimed technology would avoid the use of a sloped surface as shown by Johnson as that would allow too much slippage of the cards. Johnson can tolerate such slippage because the angled elevated portion of the delivery tray does not move and is a passive stop for cards dropped into the delivery tray. This claim is not anticipated by Johnson.

The following claim chart will illustrate why the rejection under 35 USC 102(e) is in error with respect to claim 54. This rejection must fail.

CLAIM 54	JOHNSON	COMMENTS
A device for shuffling cards, comprising:	See above.	
a card receiving area for receiving an initial set of unshuffled cards;	See above.	
a card randomizing system for randomizing an order of the cards;	See above	
a first sensor for sensing a position of cards between the card receiving area and the card randomizing system;	See above.	
a second sensor for sensing rank and/or suit of each card; and a microprocessor that activates the second sensor upon receiving a card present signal from the first sensor.	<b>Johnson discloses only one sensor at position 15. There is no activation function in the sensor as recited in this claim. There is no second sensor shown.</b>	

Each of these independent claims has been shown to be novel over the disclosure of Johnson. All dependent claims are also inherently and legally novel over Johnson. All claims in this rejection have been shown to be novel and the rejection must be withdrawn.

8. Claims 6, 9-11, 24-28, 35-36, 38 and 40 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II).

Each of these claims is dependent claims from the claims rejected in paragraph 7. The additional Johnson II reference does not teach the limitations that were the basis for establishing Novelty under 35 USC 102(b) and there is no basis for asserting those limitations to be obvious from the individual or combined teachings of these references. Johnson II also fails to show card supporting elements in the card collection area, there is no elevator cover, no moving elevator, and the like. The rejection must fail for at least that reason, even without conceding that Johnson II does or does not teach the limitations for which it has been cited.

Although Johnson does show an elevator and grippers, the elevators do not raise cards up to or above the top of the device as recited in claim 1. Rather, cards are removed from the bottom of the stack on the elevator and transmitted to the delivery device 43. Johnson et al. ('085) also shows a sensor with a trigger function, but again does not meet the structural performance of elevating cards to or above the surface (the top) for removal by a dealer.

The limitation in claim 1 is "...an elevator for raising the collection surface so that at least some randomized cards are elevated at least to the top surface of the device; and..." and this limitation is not shown by Johnson II. The rejection is in error.

9. Claims 12-13 and 48 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II) when further considered with US Patent No. 6,250,632 (Albrecht).

Each of these claims is dependent claims from the claims rejected in paragraph 7 or paragraph 8. The additional Albrecht reference does not teach the limitations that were the basis for establishing Novelty under 35 USC 102(b) and unobviousness under 35 USC 103(a) in paragraph 8 and there is no basis for

asserting those limitations to be obvious from the individual or combined teachings of these references. The rejection must fail for at least that reason, even without conceding that Albrecht does or does not teach the limitations for which it has been cited.

Claims 12-13, for example, address fine control of the collection surface on the elevator position. The elevator shaft of Johnson II is stationary and the grippers move up and down adjacent the shaft.

10. Claims 14-21 and 26-28 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II) when further considered with Purton et al.

(International Patent Application Publication WO 00/51076).

Each of these claims is dependent claims from the claims rejected in paragraph 7 and paragraph 8. The additional Purton reference does not teach the limitations that were the basis for establishing Novelty under 35 USC 102(b) and unobviousness under 35 USC 103(a) and there is no basis for asserting those limitations to be obvious from the individual or combined teachings of these references. The rejection must fail for at least that reason, even without conceding that Johnson II does or does not teach the limitations for which it has been cited. Again, the elevator shaft of Johnson II is stationary and the grippers move up and down adjacent the shaft. Johnson does not raise cards to the top of the device.

11. Claims 2, 44 and 49 have been rejected under 35 USC 103(a) as unpatentable over Johnson in view of US Patent No. 5,683,085 (Johnson II).

Each of these claims is dependent claims from the claims rejected in paragraph 7. The additional Johnson II reference does not teach the limitations that were the basis for establishing Novelty under 35 USC 102(b) and there is no basis for asserting those limitations to be obvious from the individual or combined teachings of these references. The rejection must fail for at least that reason, even without conceding that Johnson II does or does not teach the limitations for which it has been cited.

Johnson II, as repeatedly noted above, does not teach elevating a complete set of cards as described in claims 2 and 44. Cards are moved from the bottom of the stack, not raised to the top surface for manual removal. There is no moveable cover. Cards are delivered from the bottom of the stack to a delivery shoe structure. Johnson II does not overcome the deficiencies of Johnson.

**REMARKS**

The above amendments and arguments clearly establish that the rejections are in error and must be withdrawn.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's attorney of record, Mark A. Litman at (952)832-9090.

Respectfully submitted,

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By Their Representatives,

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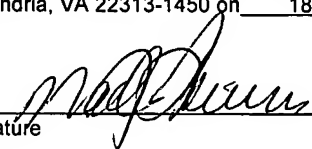
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Date 18 JULY 2007By

  
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Mark A. Litman Reg. No. 26,390

The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being sent by first class mail with First Class postage prepaid to the US Postal Service in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 18 JULY 2007.

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